

Article - Alcoholic Beverages

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§5–109.

(a) This section applies only to a franchisor that annually produces 20,000 or fewer barrels of beer in aggregate, in conjunction with any affiliate.

(b) (1) Subject to § 5–107 of this subtitle, and except as provided in subsection (d) of this section, before termination of or refusal to renew a beer franchise agreement, a franchisor shall enter into a termination agreement with the terminated franchisee.

(2) The termination agreement shall:

(i) compensate the terminated franchisee for the fair market value of the terminated franchise; and

(ii) provide for the repurchase of all the franchisor's beer at an amount equal to the laid-in cost of the franchisee's inventory of the franchisor's products that are in the warehouse or in transit to the franchisee.

(c) (1) If an agreement on the compensation authorized under subsection (b)(2)(i) of this section is not reached within 45 days after the franchisor provides the notice required by § 5–107(b)(1)(i) of this subtitle, the matter shall be submitted to binding arbitration for the purpose of determining the compensation.

(2) The binding arbitration shall:

(i) be administered under the rules of the commercial arbitration rules of the American Arbitration Association;

(ii) take place in the State;

(iii) be heard by one arbitrator who shall be appointed in accordance with the commercial arbitration rules; and

(iv) be limited to 45 days, unless otherwise agreed to by the parties.

(3) During the period of arbitration, the beer franchise agreement shall remain in effect and may terminate only on the decision of the arbitrator.

(4) The arbitrator shall be governed by the laws of the State, the Maryland Rules, and the commercial arbitration rules.

(5) In determining the fair market value of the terminated franchise, the arbitrator:

(i) may consider only the period before the franchisor provided the notice required by § 5–107(b)(1)(i) of this subtitle; and

(ii) may not consider any period following the providing of that notice.

(6) The ruling of the arbitrator shall be final and subject to enforcement in the courts of the State.

(7) The cost of the arbitration shall be shared equally by the parties.

(d) By written mutual agreement, the franchisor and the franchisee may determine another method of terminating the franchise agreement and providing compensation to the terminated franchisee.

(e) Until resolution regarding fair market value is reached under subsection (b) or (c) of this section and the terminated franchisee has received payment in accordance with the determination of fair market value:

(1) the franchisor and the terminated franchisee shall support the franchisor's products to at least the same extent that the products had been previously supported immediately before the franchisor provided the notice required by § 5–107(b)(1)(i) of this subtitle; and

(2) the terminated franchisee shall continue to distribute the products.

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